

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELECTRICAL WORKERS PENSION
TRUST FUND OF LOCAL UNION #58,
IBEW, et al.,

CIVIL CASE NO. 08-10848

Plaintiffs,

v.

HONORABLE STEPHEN J. MURPHY, III
U.S. DISTRICT COURT JUDGE

KRISTYN SMITH, et al.,

Defendants.

/

ORDER GRANTING PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT

Before the Court is Plaintiffs' Motion for Default Judgment, filed on July 24, 2008. The certificate of service indicates that the motion was served on Defendants by the U.S. Postal Service. Defendants have not filed a response opposing the motion. Local Rule 7.1(b) for the Eastern District of Michigan requires that a "respondent opposing a motion **must** file a response, including a brief and supporting documents then available." E.D. Mich. L.R. 7.1(b) (emphasis added). Local Rule 7.1(d)(1)(B) requires that responses to dispositive motions are due within twenty-one (21) days of service of the motion. E.D. Mich. L.R. 7.1(d)(1)(B). Accordingly, the response to the motion for default judgment was due on approximately August 18, 2008. *See* Fed. R. Civ. P. 6. To date, no response has been filed. Thus, the motion is unopposed.

The Court notes that a Clerk's Entry of Default was entered by the Clerk of the Court against Defendants on May 14, 2008. The Court has reviewed Plaintiffs' motion, brief, and accompanying affidavit. Having been fully advised in the premises, the Court finds that Plaintiffs are entitled to default judgment against Defendants.

ACCORDINGLY, IT IS HEREBY ORDERED that Plaintiffs' Motion for Default

Judgment [docket entry #8] is **GRANTED**.

IT IS FURTHER ORDERED:

A. That Judgment is entered in favor of Plaintiffs against Defendants, Kristyn Smith and Todd Smith, d/b/a Kristyn Smith Electric, jointly and severally in the amount of \$3,695.35¹ and Plaintiffs shall have the right of execution thereon.

B. That the February 27, 2006 award of the Joint Labor-Management Committee (Exhibit C to the Complaint) is confirmed and Defendants shall forthwith comply with same by:

“A. Submitting the fringe benefit reports due to the date of this decision as required by Article VIII of the Agreement, and

B. Immediately paying the amounts shown on those reports as due, including the liquidated damages due thereon, and

* * *

D. Hereafter, filing all reports and paying all fringe benefit contributions on a timely basis as required by Article VIII.”

SO ORDERED.

Dated: September 24, 2008

s/Stephen J. Murphy, III

HONORABLE STEPHEN J. MURPHY, III
UNITED STATES DISTRICT JUDGE

¹ Consisting of \$47.88 in shortages and \$2,280.41 in liquidated damages owed to the Electrical Workers Joint Boards of Trustees and plaintiffs costs and actual attorney fees of \$1,367.06 to which they are entitled pursuant to 29 USC §1132(g)(2)(D).

Certificate of Service

I hereby certify that on September 25, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

George H. Kruszewski, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Kristyn Smith ; Todd Smith.

s/Alissa Greer

Alissa Greer, Case Manager
(313) 234-2680